

# Town of Frederick Board of Trustees



Eric Doering, Mayor

Sue Wedel, Mayor Pro Tem  
Liberta Hattel, Trustee  
Amy Schiers, Trustee

Tony Carey, Trustee  
Gerry Pfirsch, Trustee  
Jim Wollack, Trustee

---

AM 2009-078

## REQUEST FOR APPROVAL OF THE PROPOSED LOT 1 PURITAN SUBDIVISION (ST. DIMITRIE) ANNEXATION, ZONING, AND COMPREHENSIVE PLAN AMENDMENT

---

**Agenda Date:** Town Board Meeting - September 8, 2009

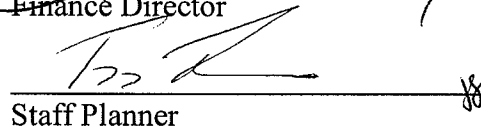
**Attachments:**

- a. Letter of intent and criteria response
- b. Annexation Assessment report
- c. Petition for annexation
- d. Annexation Agreement
- e. Draft Planning Commission Minutes from August 18, 2009
- f. PCR-2009-012A Approval of the Comprehensive Plan Amendment
- g. PCR-2009-013A Approval of the of the Annexation and Zoning
- h. Ordinance for approval of the Comprehensive Plan Amendment
- i. Resolution for approval of the Annexation
- j. Resolution for approval of the C-H52 Zoning
- k. Ordinance for approval of the Annexation and C-H52 Zoning
- l. Vicinity Map
- m. 11x17 drawing of the proposed Comprehensive Plan Amendment
- n. 11x17 drawing of the Annexation boundary
- o. 11x17 drawing of the Zoning Amendment
- p. 11x17 drawing of the Concept Plan

**Fiscal Note:** None noted

  
Finance Director *Assistant Finance Dir.*

**Submitted by:**

  
Staff Planner

**Approved for Presentation:**

  
Town Administrator

**AV Use Anticipated**

Projector ☒ Laptop ☐

---

**Certification of Board Approval:**

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

**SUMMARY STATEMENT:** Mr. Toderica has requested a Comprehensive Plan Amendment, Annexation, (5.61 acres) and Zoning (6.008 acres) of land at the northeast corner of the intersection of Highway 52 and Puritan Lane. The Board of Trustees accepted the application as complete and ready for consideration on July 28, 2009, establishing the hearing schedule for consideration of the request.

Staff finds that the proposed Annexation, Zoning, and Comprehensive Plan Amendment meet the requirements of the Code and recommends approval.

The Planning Commission considered the request on August 18, 2009 and recommends approval of the Annexation, Zoning, and Comprehensive Plan Amendment.

**DETAIL OF ISSUE/REQUEST:**

**Applicant / Owner:** Nicolae Toderica

**Agent:** Kurt Rollin / Carrie De Silva with CES Consultants

**Surrounding Zoning / Land Uses:** The proposed development encompasses a 5.651 acre portion of the southeast quarter of Section 34, T2N, R68W and is bounded by Highway 52 to the south, and Puritan Lane to the west. The commercial portion of Wyndham Hill is adjacent to the east of the site.

North	Developed, residential, Unincorporated Weld County, zoned Agricultural
South	Highway 52
East	Undeveloped, Town of Frederick, zoned C-H52 / PUD overlay,
West	Developed, residential, Unincorporated Weld County, zoned Agricultural

**Referral:** The application was referred per the provisions of the Land Use Code to the applicable referral agencies, departments, and interests including, Weld County, Town of Erie, Saint Vrain Sanitation District, Carbon Valley Recreation District, Left Hand Water District, Northern Colorado Water Conservancy, Colorado Department of Transportation, Saint Vrain Valley School District, Colorado Geological Survey, Town Attorney, Town Engineer, Frederick Firestone Fire Protection District, Mountain View Fire Protection District, mineral interests, ditch interests, and all of the applicable utility companies. All referral responses are on file with the Planning Department and have been incorporated into the report as applicable.

Fredrick Development Company (aka Jon Lee / CDG): Met with Nicolae and discussed upstream storm water flows and the value of the commercial land it affects at certain locations and suggested that Frederick Development Company, the applicant, and the Town work closely together to find solutions to this issue.

CDOT: Will require a new access permit. Review of the permit may identify required highway improvements.

No other comments of note were provided in response to the referral request.

**Neighborhood Meeting:** A neighborhood meeting was held on April 16, 2009 with three neighbors in attendance. The neighbors questioned the name of the road (Puritan Lane), why the right-of-way was to be annexed (as requested by Weld County and to provide consistent maintenance, jurisdiction and management), the number of church members to visit the site (10-20 regularly with more on holidays). The neighbors also asked if the cotton wood trees would remain (yes), if Puritan Lane would be paved (yes), and how water service will be attained (to be determined as part of the site plan).

**Public Notice:** The public meeting was noticed in accordance with the provision of the Land Use Code.

**Review Criteria:** Article 13.2 of the Land Use Code establishes the criteria for annexations while Section 4.7.2.d establishes the criteria for Zoning Amendments and Section 4.7.10.b establishes the criteria for Comprehensive Plan Amendments as follows:

**Criteria for amendment of the Comprehensive Plan: 4.7.10.b. The Comprehensive Plan may be amended pursuant to the following criteria:**

- (1) The amendment improves the implementation of one or more of the goals, policies, and strategies of The Town of Frederick Comprehensive Plan, 2006.
- (2) The amendment will not pose a detrimental impact on existing or planned Town facilities, services or transportation facilities.
- (3) The amendment will not interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2006.
- (4) The amendment will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services.

The applicant has requested an amendment to the Comprehensive Plan, changing the proposed development site from the Rural Residential designation to the Mixed Use Highway 52 designation in anticipation of a proposed Church and related commercial uses.

The applicant states that the request is consistent with multiple aspects of the Comprehensive Plan including Goal 5, Goal 10, Policy 10.7, Strategy 10.7.1, Goal 11, Goal 22. Upon review, the proposed amendment improves the implementation of multiple Goals, Policies, and Strategies of the Comprehensive Plan, including the following:

- Goal 1, Grow with the intention to maintain a small-town sense of community.
- Goal 2, Create a healthy balance between housing, employment, availability of goods and services, recreation and cultural opportunities within the community.
- Policy 2.2, Encourage development within the planning area to annex to the Town.
- Policy 10.2, Locate economic development in appropriate and viable locations (meets with the criteria established under this policy).
- Goal 11, Encourage the growth of commercial areas and services within the Town while preserving the community character and meeting the needs of the citizens.
- Policy 11.3, Encourage commercial development along the Highway 52 corridor.
- Strategy 12.1.1, Allow the clustering of commercial uses and residential dwellings to provide buffers, common space, and trail connections.
- Goal 22, Maintain a high quality of life for Frederick residents by supporting and expanding cultural, historic, educational, and human service opportunities.

The proposed amendment will not have a detrimental impact on existing or planned facilities. Please note that Community Development Group (CDG) has indicated that when the Wyndham Hill commercial center was contemplated, the subject site was to be used as a detention pond. However, the site was not annexed, and CDG and the previous property owner did not come to an agreement with regard to the purchase of the property. Consequently, alternatives may need to be explored by CDG for the required detention, including but not limited to securing a portion of the subject site for storm water detention, or altering the original plan to provide storm water detention on the CDG site. Please note that the current property owner has contacted CDG and is not opposed to providing a portion of the site for storm water detention. To date, no agreements have been reached between CDG and the current property owner regarding the storm water detention for the CDG property.

While the site has been contemplated as a possible location for CDG's storm water detention, it is not evident that the proposed amendment to the comprehensive plan would interfere with the existing or emerging land use patterns and densities/intensities of the surrounding neighborhoods as depicted on the Land Use Plan and contained within the Town of Frederick Comprehensive Plan, 2006. Furthermore, site development is considered under a separate process from annexation. Nothing provided by the applicant or the various referrals indicates that the proposed Comprehensive Plan Amendment would interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services; however, further discussion is required to resolve the storm water detention issue as development occurs and under separate processes.

#### **Criteria for Annexation: Sec. 13.2 General provisions**

- 1. Annexation of lands to the Town shall be in accordance with this Code and the laws of the State in effect at the time of annexation and which may be amended from time to time, including but not limited to requests for zoning as provided for in Sections 3.2.4, 4.7.2, and 13.3 of the Land Use Code as well as the processes further described in Article 4 of this Code and other Sections as applicable.**
- 2. The Board of Trustees may consider annexation of any land that satisfies the eligibility requirements of the statutes of the State as follows:**
  - a. The area proposed for annexation has not less than one-sixth of its perimeter contiguous with the municipal boundaries;**
  - b. A community of interest exists between the area proposed for annexation and the Town; the area is urban or will be urbanized in the near future; and said area is integrated with or is capable of being integrated with the annexing municipality.**
  - c. The proposed annexation furthers the intent of the Comprehensive Plan.**
- 3. If the Board of Trustees determines to proceed with annexation of property, the Board shall make such determination by resolution which shall include the public hearing date.**
- 4. Except as otherwise provided, the full width of all public rights-of-way adjacent to a proposed annexation shall be included in the annexation.**

The application for annexation involves a 5.6 acre parcel and right-of-way within the Town's Planning area and is bounded on two sides by Frederick's municipal boundary to the east (Wyndham Hill) and south (CO-52 and Glacier Business Park), meeting the 1/6<sup>th</sup> contiguity requirement. As noted above in the response to the criteria for consideration of the

Comprehensive Plan Amendment, the area is planned for urban development, is consistent with multiple goals of the Comprehensive Plan, and provides a community service that was not anticipated in the adoption of the Comprehensive Plan (see zoning criteria below). In addition, the pattern of development will not interfere with emerging land use patterns, nor will it interfere with the provision of existing, planned, or previously committed services (please also see comments regarding storm water detention in the discussion above). Therefore, there is a community of interest that exists between the site and Town. In addition, the annexation furthers the intent of the Comprehensive Plan and the proposed annexation includes the adjacent right-of-way for Puritan Lane, as required by this criterion.

The application meets with the requirements for annexation as proposed.

**Section 4.7.2.d of the *Land Use Code* sets the review criteria for amendments to the official zoning map:**

**Review Criteria.** For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

- (1) To correct a manifest error in an ordinance establishing the zoning for a specific property;**
- (2) To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally;**
- (3) The land to be rezoned was zoned in error and as presently zoned is inconsistent with the policies and goals of the Comprehensive Plan;**
- (4) The proposed rezoning is necessary to provide land for a community-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the policies and goals of the Comprehensive Plan;**
- (5) The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area; or**
- (6) A rezoning to Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.**

This request is to zone an area of land related to a proposed annexation for an anticipated Church use. The subject area (6.008 acres) is currently in unincorporated Weld County zoned Agricultural. The Comprehensive Plan map has indicated that this location is designated for Rural Residential Development; however, this site abuts the area designated for Community Commercial by the Comprehensive Plan and Zoned C-H52 (Wyndham Hill) to the east and Light Industrial (Glacier Park) to the South and adjacent to CO-52. In addition, the adjacent property to the west consists of residential and commercial uses, while residential uses also occur to the north of the site.

While the proposed Mixed Use Highway District (C-H52) zone for this site does not match the Rural Residential designation shown on the Comprehensive Plan Map, the request is consistent with various policies and goals of the Comprehensive Plan (as noted in the criteria review in section 4.7.10.b above), as well as existing and anticipated surrounding land uses (C-H52 from the Wyndham commercial property to the east). Moreover, the proposed zoning provides for a community-related use (Church) and commercial uses that were not contemplated at the time of

adoption of the Comprehensive Plan (4.7.2.d.4). Therefore, the request is consistent with two of the criteria for a zoning change. Note that only one of the criteria must be met for approval of the request. In addition, other uses related to the development of the site as a church, or otherwise, must comply with the supplemental criteria of the Land Use Code as detailed in Article 3, including but not limited to setback provisions for certain activities from neighboring land uses.

The application meets with the requirements for zoning as proposed.

**Planning Commission:** The Planning Commission meeting was held on August 18, 2009. No one from the public spoke to the application. Members of the Planning Commissioners questioned how storm water will be conveyed in relation to the Wyndham Hill commercial area and CDG's referral response. Staff noted that by State Law the subject property owner is required to release storm water flows from their property at historic levels and that discussions have been ongoing between Jon Lee and both the previous and current owners of the subject parcel. Staff also noted that the amendment, annexation, and zoning will not interfere with, or prevent, the provision of any of the area's (neighborhood's) existing, planned, or previously committed services, as the applicants engineered storm water management plan is designed to function per State Law. Lastly, the matter is being addressed as part of the development review for the site and will be detailed in the MOAPI.

The Planning Commission voted unanimously to approve the Comprehensive Plan Amendment and recommend approval of the Annexation and Zoning to the Board of Trustees.

**Legal/Political Considerations:** None noted.

**Alternatives/Options:**

**ACTIONS:** The Board of Trustees may consider the following options regarding the application:

- ☐ Approval of the request finding it is substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Denial of the request with a finding that it does not substantially achieve conformance with the provisions of the Land Use Code and Comprehensive Plan;
- ☐ Approval of the request finding that it would be substantially in conformance with the provisions of the Land Use Code and Comprehensive Plan if certain conditions are met;

**Staff Recommendation:** Staff and the Planning Commission recommends approval of the Comprehensive Plan Amendment and the proposed Annexation and Zoning to the Board of Trustees, as proposed.